THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.26560 OF 2006

ORAL ORDER:

This writ petition is filed aggrieved by the action of the 3rd respondent-Bank in proposing to sell the property bearing No.5-40/3/1 (old), corresponding to new No.7-114/2, Plot No.25, Sy.No.69 part, situated at Bowenpally village, Balanagar Mandal, Ranga Reddy District. It is not in dispute that the said property is a secured asset in connection with the loan availed by the 2nd respondent. Since the 2nd respondent failed to discharge the liability, the 3rd respondent-Bank initiated the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. A copy of the possession notice issued by the 3rd respondent-Bank, said to have been published in the local dailies dated 6.12.2006, shows that in spite of the demand notice issued under Section 13(2) of the Act, the 2nd respondent failed to pay the amounts due under the loan account. The petitioners herein claimed to have purchased the property in question from the respondents 1 and 2 under an agreement of sale in July, 2006. It is pleaded that pursuant to the possession notice, the 3rd respondent is taking steps to sell the property in question by way of public auction. This writ petition is filed contending that since the petitioners are ready and willing to pay the entire debt with interest due to the 3rd respondent-Bank, the proposed sale is arbitrary and illegal.

Except a copy of the agreement of sale dated 2.7.2006, executed by the 2nd respondent and a copy of the possession notice dated 25.11.2006, nothing has been placed before this Court to show that any sale has been contemplated by way of public auction. At any rate, if the petitioners are ready and willing to pay the entire amount on behalf of the 2nd respondent in full

satisfaction of the loan availed from the 3rd respondent-Bank, it is always open to them to do so. In the absence of any material to show that the petitioners have acquired any right or title in respect of the property in question, and particularly in the absence of any allegation that the action of the 3rd respondent is contrary to law, the *mandamus* as sought by the petitioners cannot be issued.

Accordingly, the writ petition is disposed of leaving open to the petitioners to remit the amount due, in which event the 3rd respondent-Bank will consider the same in accordance with law. No costs.

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(G. ROHINI, J.)

22nd December, 2006.
Issue CC by Tuesday.
(Bo)
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.26560 OF 2006

22nd December, 2006.

Between:

M. Prasad Veera Kumar and another. .. Petitioners.

And

P.H.V.S. Talpa Sai and others. .. Respondents.